

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
Charlottesville Division**

ELIZABETH SINES, SETH WISPELWEY,  
MARISSA BLAIR, TYLER MAGILL, APRIL  
MUNIZ, HANNAH PEARCE, MARCUS  
MARTIN, NATALIE ROMERO, CHELSEA  
ALVARADO, and JOHN DOE,

Plaintiffs,

v.

JASON KESSLER, RICHARD SPENCER,  
CHRISTOPHER CANTWELL, JAMES  
ALEX FIELDS, JR., VANGUARD  
AMERICA, ANDREW ANGLIN,  
MOONBASE HOLDINGS, LLC, ROBERT  
“AZZMADOR” RAY, NATHAN DAMIGO,  
ELLIOT KLINE a/k/a/ ELI MOSLEY,  
IDENTITY EVROPA, MATTHEW  
HEIMBACH, MATTHEW PARROTT a/k/a  
DAVID MATTHEW PARROTT,  
TRADITIONALIST WORKER PARTY,  
MICHAEL HILL, MICHAEL TUBBS,  
LEAGUE OF THE SOUTH, JEFF SCHOEP,  
NATIONAL SOCIALIST MOVEMENT,  
NATIONALIST FRONT, AUGUSTUS SOL  
INVICTUS, FRATERNAL ORDER OF THE  
ALT-KNIGHTS, MICHAEL “ENoch”  
PEINOVICH, LOYAL WHITE KNIGHTS OF  
THE KU KLUX KLAN, and EAST COAST  
KNIGHTS OF THE KU KLUX KLAN a/k/a  
EAST COAST KNIGHTS OF THE TRUE  
INVISIBLE EMPIRE,

Defendants.

**Civil Action No. 3:17-cv-00072-NKM**

**JURY TRIAL DEMANDED**

**PLAINTIFFS’ NOTICE CONCERNING THE STATUS OF DEFENDANT  
PEINOVICH’S MOTIONS TO QUASH**

Plaintiffs respectfully submit this Notice Concerning the Status of Defendant Peinovich's Motions to Quash ("Notice") in response to the Court's July 12, 2018 Order (ECF No. 341, the "Order") and to inform the Court that, for the reasons contained herein, no further briefing is necessary and Peinovich's Objections should be denied.<sup>1</sup>

On May 4, 2018, Peinovich filed Objections (ECF No. 309) to Judge Hoppe's April 20, 2018 order (ECF No. 304) denying Peinovich's motions to quash subpoenas served by Plaintiffs on Twitter, Inc., GoDaddy.com, LLC, Cloudflare, LLC, and Hatreon. For the reasons set forth in Plaintiffs' response to Peinovich's Objections, (ECF No. 312), Judge Hoppe's April 20, 2018 order declining to quash Plaintiffs' subpoenas was neither "clearly erroneous" nor "contrary to law." *Wyatt v. Owens*, No. 7:14-Civ-492, 2016 WL 6651410, at \*1 (W.D. Va. Nov. 10, 2016) (Moon, J.) (quoting Fed. R. Civ. P. 72(a)). Accordingly, on that basis alone, Peinovich's Objections to Judge Hoppe's order should be denied.

Peinovich's conversion from a party to a non-party does not alter that result. Fourth Circuit authority makes clear that "[r]egardless of whether a motion is made under Rule 26(c) or Rule 45(d), the party opposing discovery has the obligation to submit evidence supporting its claims that the discovery is unduly burdensome, oppressive, or irrelevant." *In re C.R. Bard, Inc. Pelvic Repair Sys. Prod. Liab. Litig.*, No. MDL 2187, 2014 WL 1660386, at \*3 (S.D. W. Va. Apr. 22, 2014); *see also In re Monitronics Int'l Inc.*, No. MDL 1:13-MD-2493, 2014 WL 12623046, at \*3 (N.D.W. Va. June 19, 2014). Therefore, had Judge Hoppe considered Peinovich's

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<sup>1</sup> Pursuant to the Court's direction, Plaintiffs met and conferred with Peinovich concerning "(1) whether the Court's order dismissing Defendant Peinovich changes the scope of relevant information that may be sought by Plaintiffs' subpoenas, and (2) whether any supplemental briefing is needed to address this change or the posture of the motion." (ECF No. 341.) The parties disagreed as to whether Peinovich's dismissal changed the scope of relevant information that may be sought by Plaintiffs' subpoenas and this Notice therefore follows.

motion as a non-party under Rule 45 rather than under Rule 26, as he did, the same standard would apply and dictate the same result. *See In re C.R. Bard, Inc. Pelvic Repair Sys. Prod. Liab. Litig.*, 2014 WL 1660386, at \*2–3. For this additional reason, Judge Hoppe’s analysis remains correct, the Objections should be denied, and no supplemental briefing is required.

Finally, the fact that Peinovich is no longer a party does not alter the scope of discovery in this case. The subpoenas seek information relevant to the coordination among Defendants and coconspirators who used certain websites to plan violence and coordinate the Unite the Right rally. *See* ECF No. 249 at 2–3. This includes information concerning Defendants and coconspirators other than Peinovich. Moreover, although Peinovich has been dismissed from the case, he remains an alleged coconspirator of Defendants. Therefore, information pertaining to his statements and actions similarly remain relevant to Plaintiffs’ claims and the information sought by the subpoenas continue to fall within the “broad” scope of “freely permitted” discovery under the Federal Rules of Civil Procedure. *Bell Inc. v. GE Lighting, LLC*, No. 6:14-cv-00012, 2014 WL 1630754, at \*6 (W.D. Va. Apr. 23, 2014) (Moon, J.).

## CONCLUSION

For the reasons set forth above, in Judge Hoppe's order, and in Plaintiffs' Response to Peinovich's Objections (ECF No. 312), the Court should consider Peinovich's Objections as presently stated and deny them.

Dated: July 26, 2018

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## CERTIFICATE OF SERVICE

I hereby certify that on July 26, 2018, I filed the foregoing with the Clerk of Court through the CM/ECF system, which will send notice of the electronic filing to:

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I further hereby certify that on July 26, 2018, I also served the following non-ECF participants, via U.S. mail, First Class and postage prepaid, addressed as follows:

Loyal White Knights of the Ku Klux Klan  
a/k/a Loyal White Knights Church of the  
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